

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Mar 30, 2024

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RAUL H.,¹

Plaintiff,

vs.

MARTIN O'MALLEY,
COMMISSIONER OF SOCIAL
SECURITY,²

Defendant.

No. 2:22-cv-00208-RHW

**ORDER ADOPTING REPORT
AND RECOMMENDATION TO
GRANT PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT
AND DENY DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT**

ECF Nos. 13, 14, 18

Before the Court is the Report and Recommendation issued by Magistrate Judge Alexander C. Ekstrom, ECF No. 18, recommending Plaintiff's Motion, ECF No. 13, be granted and Defendant's Motion, ECF No. 14, be denied. No objections were filed. After reviewing the Report and Recommendation, the Court finds the Magistrate Judge's findings are correct. Therefore, the Court adopts the

¹ To protect the privacy of plaintiffs in social security cases, the undersigned identifies them by only their first names and the initial of their last names. *See* LCivR 5.2(c).

² Pursuant to Federal Rule of Civil Procedure 25(d), Martin O'Malley, Commissioner of Social Security, is substituted as the named Defendant.

1 Report and Recommendation in its entirety.

2 Accordingly, **IT IS ORDERED:**

3 1. The Report and Recommendation, **ECF No. 18**, is **ADOPTED** in its
4 entirety.

5 2. Plaintiff's Motion, **ECF No. 13**, is **GRANTED**. The Commissioner's
6 decision is **REVERSED** and this matter is **REMANDED** for further proceedings
7 consistent with the Report and Recommendation pursuant to sentence four of 42
8 U.S.C. § 405(g).

9 3. Defendant's Motion, **ECF No. 14**, is **DENIED**.

10 4. Upon proper presentation, the Court will consider Plaintiff's application
11 for fees and expenses under the Equal Access to Justice Act, 28 U.S.C. § 2412(d).

12 5. The District Court Executive shall update the docket sheet to reflect the
13 substitution of Martin O'Malley as Defendant.

14 The District Court Executive is directed to enter this Order, **ENTER**
15 **JUDGMENT** in favor of Plaintiff, forward copies to counsel and Magistrate Judge
16 Ekstrom, and **CLOSE THE FILE**.

17 DATED March 30, 2024.

18 s/Robert H. Whaley
19 ROBERT H. WHALEY
20 Senior United States District Judge